BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the	)	
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PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 03-0371
	)	
Instituting a Proceeding to	)	
Investigate Distributed Generation	)	
in Hawaii	)	
_____	)	

HESS MICROGEN, LLC'S

POST-HEARING OPENING BRIEF

and

CERTIFICATE OF SERVICE

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HESS MICROGEN LLC'S OPENING BRIEF

TO THE HONORABLE PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII:

HESS MICROGEN, LLC ("Hess") hereby respectfully submits its post-hearing Opening Brief in the above-referenced Docket to the Hawaii Public Utilities Commission ("Commission") pursuant to Prehearing Order No. 20922 and the Commission's Letter dated December 28, 2004. The Commission in its Letter dated December 28, 2004 requested that the Parties and Participants address the following issues, in additional to any other questions the parties and participants wish the Commission to consider:

1. ***Whether the costs and benefits of distributed generation change in times of excess capacity vs. times of shortages of capacity; if the answer is yes, then given that for the life of any long-term asset there are likely to be periods of excess capacity and shortages, please comment on the time span over which one should measure the cost and benefits of distributed generation.***

Hess does not take a position on this issue at this time, but reserves its right to comment on this issue in its Reply Brief.

2. ***How should non-utility owned distributed generation be incorporated into the IRP process, in a manner comparable to the treatment of utility-owned distributed generation, so that there is no market or regulatory advantage of one type over another?***

Yes, non-utility owned distributed generation should be incorporated into the IRP process in the same manner as utility-owned distributed generation; there should be no distinction as to ownership. To ensure fair treatment for both non-utility and utility owned distributed generation there should be Commission process to guard against predatory prices.

3. Whether transmission and distribution costs will be substantially reduced for CHP or other distributed generation projects set up for peak shaving only.

Hess does not take a position on this issue at this time, but reserves its right to comment on this issue in its Reply Brief.

4. Whether potential loss of revenues to investor owned utilities, due to advancements in technology and the development of new markets is a risk for which the utility has been and is compensated through its approved rate of return; and which forms of distributed generation, if any, would fall into the category of advancement risks for which the utility already receives compensation.

Hess does not take a position on this issue at this time, but reserves its right to comment on this issue in its Reply Brief.

5. Whether the utility would have stranded costs in period of load growth.

Hess does not take a position on this issue at this time, but reserves its right to comment on this issue in its Reply Brief.

6. Is it reasonable to expect identification of individual projects or project zones in the IRP process? What specific modifications to the IRP process should the Commission consider to facilitate such identification?

Hess does not take a position on this issue at this time, but reserves its right to comment on this issue in its Reply Brief.

7. Under each of the two scenarios for participation in distributed generation – utility participation and utility affiliate participation – what rules and

restrictions are necessary to assure that the competition between non-utility projects and utility-owned (or affiliate-owned) projects is evenhanded, meaning that the utility or utility affiliate has no unearned competitive advantage?

Hess would respectfully suggest that the following must be done to assure that competition between non-utility projects and utility owned (or affiliated-owned projects)[1] is evenhanded:

a. Fair and Timely Interconnection Standards:

In order for the interconnection standards to be fair, non-utility projects and utility owned projects must be subject to the same interconnection standards and process.[2] During the hearing for this Docket, Hess recommended to the Commission the implementation of a queuing system to insure that no project received preferential treatment.[3] Both non-utility and utility owned projects would be subject to the queuing system, so that the utilities would not be able to favor itself over non-utility projects.[4] Also, for customer sited Distributed Generation ("DG") projects, it must be a customer approved project, this will insure that there is actually a project and not an attempt by an entity to "clog" the queuing system with "wish list" projects.[5] The queuing system that Hess recommended has been adopted by other jurisdictions on the Mainland.[6]

Another safeguard to insure fairness is that interconnection standards should be based on the National Interconnection Standard IEEE 1547. Deviations to this Standard

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[1] Throughout this Brief, whenever "utility-owned" is used it will also be referring to "or affiliated owned projects". Hess does not object to utility owned or utility affiliated owned DG projects in the market place. See Hearing Transcripts at Vol. II, p. 44, lines 16-25, p. 45, lines 17-24, p. 46, lines 1-3.

[2] It is Hess' position that a size limit for interconnection is not necessary because the interconnection application process and the permitting agencies will determine on a case by case basis whether the size of a proposed DG unit is correct. See Hearing Transcripts at Vol. I. P. 49, lines 7-11.

[3] See Hearing Transcripts at Vol. II, p. 161, lines 5-11.

[4] Ibid. at lines 15-17.

[5] Ibid. at p. 193, lines 13-25; p. 162, lines 1-4.

[6] Ibid. at p. 161, line 4.

should only be allowed, if both parties clearly demonstrate that the specific site application requires deviation.

Also, the interconnection people at the utility who do administrative functions should not be part of the utility DG group.[7]

Next, the interconnection process must be timely. The first 15-30 days of the interconnection process is very important to a non-utility DG provider. During this time it is vital that the non-utility DG provider receive a preliminary estimate of the perceived costs that would be involved in procuring the project.[8] This is important to the non-utility DG provider because the preliminary estimate will determine whether or not the project is economically feasible and, thus, whether or not the project should be pursued. If the project is not economically feasible, the non-utility DG provider wants to know it before it begins to incur additional costs for permitting, citing, and securing equipment.[9]

During the hearing in this Docket, Hess recommended to the Commission that upon a non-utility DG provider providing the utility with the information required under Rule 14H, the non-utility DG provider would receive an acknowledgment from the utility and the clock would start for the processing of the application.[10] Also, Hess suggested that the non-utility DG provider have the option of receiving expedited interconnection service by paying for a dedicated engineer to evaluate its project.[11] This procedure recommended by Hess is standard in other jurisdictions.[12]

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[7] Ibid. at p. 20, lines 3-7.
[8] Ibid. at p.58, lines 1-13.
[9] Ibid. at p. 160, lines 7-16.
[10] This would only apply to the HECO/HELCO/MECO system. However, it would work the same once KIUC developed its own interconnection standards.
[11] See Hearing Transcripts at Vol. II, p. 161, lines 18-25, p. 162, lines 1-4.
[12] Ibid. at p.159, lines 23-25; p. 150, lines 1-6.

Also, Rule 14A must also be designed to address possible standby charges and possible stranded cost.[13] This is important to non-utility providers so that they are aware of all costs and can determine if a project is economical.[14]

The total interconnection study should take no longer than four to six months. If the process takes longer, applicant should have a process to file a complaint with the Commission.[15] In order for the complaint process to be effective, however, the Commission must review the complaint expeditiously.

b. Standby Charges, if any, Must be Applied Equally to All and there must be a Set Method for Its Calculation:

There should be no standby charge because under the HELCO system, customers are already being charged a ratcheted demand charge and thus, the standby charge results in the DG customer being doubled charged.[16] In lieu of having a standby charge, the utility should ". . .set a minimum KWH so that the present share of total fixed cost borne by this customer class is unchanged, but have a rate structure which, while keeping utility whole and keeping the other customers unaffected, gives you an incentive to reduce your KWH[.]"[17] In support of this argument and in an effort to understand HECO/MECO/HELCO's rate structure, Hess requested, and HECO/MECO/HELCO agreed to do, a calculation from HECO/MECO/HELCO.[18] To date, Hess has not

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[13] This would only apply to the HECO/HELCO/MECO system. However, it would work the same once KIUC developed its own interconnection standards.

[14] See Hearing Transcripts at Vol. II, p. 162, lines 20-21.

[15] Ibid. at p. 172, lines 15-18.

[16] Currently HECO and MECO do not have a standby charge. The Consumer Advocate testified that it would not object to the Commission looking into whether or not there is a double recovery by the utility where there is a demand charge that is ratcheted and also the possibility of a standby charge. See Hearing Transcripts at Vol. I, p. 167, 168, lines 1-2.

[17] See Hearing Transcripts at Vol. II, p. 260, lines 13-19.

[18] Ibid. at Vol. III, p. 84, lines 7-14. Also, see ltr. to T. Williams from S.A. Wong, dated 2/14/05.

received said calculation and, thus, reserves its right to comment on such calculation once it receives it.[19]

However, if the Commission is persuaded to continue to permit standby charges, Hess recommended during the hearing in this Docket that the calculation for the standby charge be clear to all and that there be a sound basis for the calculation. In other word, Hess wants certainty, the standby charge cannot be just an arbitrary number.[20]

This is vital because a standby charge can make or break a DG project. As the Consumer Advocate testified during the Hearing in this Docket, "One of the other witnesses said that – that standby rates ought not to encourage DG. I think it's [sic] equally important that they not be inflated in a way that discourages DG. And I think that the company's Big Island rate design does exactly that. It unfairly discourages the installation of efficient combined heart and power systems and reduce oil consumption – "[21]

HECO testified during the hearing that the HELCO standby charge was determined without all the necessary information to determine a proper standby charge. HECO testified,

Q – Okay. So, then, could you tell me what is the process that you all do in determining a standby rate?

A – First of all, you have to determine the costs that are imposed by the standby customers on the system, and that includes how much of the transmission and distribution and capacity costs of the company should be allocated to the standby customers.

Q – Okay. Is that all?

A – That's the process, but to do that process, you need all the information that I mentioned earlier.

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[19] See ltr. to Commission from S.A. Wong, dated 3/3/05.
[20] See Hearing Transcripts at Vol. II, p.259, lines 19-21.
[21] Ibid. at p. 250, lines 14-21.

Q – Could you mention that again, please, to refresh my memory?

A – Okay. I hope that I remember them all. The type and number of DG – DG units installed, DG sizes, the diversity, availability factor of the DG units installed, the load profile or operating characteristics of the customers, coincidence of the system peak, the diversity load.

Q – Now, was this process followed in determining HELCO's current standby rate?

A – As we mentioned, HELCO's standby rate was stipulated between the company and the CA.

Q – So, does that mean that the process that you just articulated was not followed?

A – It wasn't based on the cost of providing standby service because we don't have the information –

Q – So – I'm sorry. Go ahead.

A - --to do the cost of service for standby service at this point.[22]

Also, in determining whether a non-utility DG project is economically both for the provider and the customer, the following information must be available, as discussed during the hearing in this Docket:

MODERATOR HEMPLING: Mr. Gregg, what you're saying is this. To the extent there's going to be a need to compensate the utility for the fixed cost recovery you're no longer getting because your energy use is reduced, you want to know how that calculation is going to be made and when you're going to be billed for it. And you're going to want to be able to project that cost –

MR. GREGG: And the maximum amount.

MODERATOR HEMPLING: -- over the life. Whatever it is, you're going to want to know at the time of the investment so you can project it and take it into account?

MR. GREGG: Correct.

MODERATOR HEMPLING: Whether it's in the form of a stranded cost charge, or whether it's load into what we're calling the standby rate, you want to know what it is.

[22] See Hearing Transcripts at Vol. III, p.86, p. 87, lines 1-17.

MR. GREGG: Right.

MODERATOR HEMPLING: Ahead of time.[23]

c. Customer Retention Discounts and other Specials by the Utility to Customers Should Not be Allowed:

Financial incentives, such as customer retention discounts, that non-utility providers would not be able to provide to customers should be allowed to be offered by the utility.[24] If the utilities were allowed to do this, this would give them a competitive advantage over non-utility DG providers.

d. Rules and Procedures to Prevent Anti-Competitive Pricing:

Hess would strongly recommend that the Commission adopt Rules and Procedures to Prevent Anti-Competitive/Predatory Pricing.[25] Also, there must be a means for the Commission and non-utility DG providers to review the prices that are being offered by the utilities to insure that the prices are not anti-competitive/predatory. If the non-utility DG provider believes that the utility's price is anti-competitive/predatory, there should be a complaint process with the Commission. In order for the complaint process to be effective, however, the Commission must review the complaint expeditiously.

The four issues that Hess has raised in response to Question No. 7 are important because each, separately and/or together, have the potential to make DG/CHP in Hawaii uneconomical and not feasible.

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[23] See Hearing Transcripts at Vol. II, p. 240, lines 3-22.
[24] Ibid. at p. 19, line 24-25; p. 20, lines 1-2.
[25] Ibid. at p. 25, lines 10-11.

Respectfully submitted.

DATED: Honolulu, Hawaii, March 7, 2005

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